



U.S. Department of Justice

United States Attorney  
Eastern District of New York

LJF:AEG/SD  
F.#2007R02181

271 Cadman Plaza East  
Brooklyn, New York 11201

November 13, 2009

**By Facsimile and ECF**

Karina E. Alomar, Esq.  
Alomar & Associates, PC  
60-89 Myrtle Avenue  
Ridgewood, New York 11385

Mildred Whalen, Esq.  
Federal Defenders of New York  
One Pierrepont Plaza, 16th Floor  
Brooklyn, New York 11201

Re: United States v. Thomas Archer et al.  
Criminal Docket No. 08-288 (S-1)(SJ)

Dear Counsel:

The government writes in response to defendant Rukhsana Rafique's November 12, 2009 letter requesting the government's witness list, including notice that Sarvjit Singh will appear as a government witness if that is the case, and any documents not already provided in 3500 material or disclosures pursuant to Giglio v. United States, 405 U.S. 150 (1972), related to the Department of Homeland Security, Immigration and Customs Enforcement's grant of deferred action to certain anticipated government witnesses. Defendant Thomas Archer joined the latter request in a November 13, 2009 letter.

In accordance with its usual practice, the government will provide the defendants and the Court with a list of its expected witnesses on the first day of trial. However, the government has provided 3500 material for all of the witnesses it expects to call in its case-in-chief.<sup>1</sup>

Enclosed is additional 3500 material for the individuals listed in Rafique's November 12 letter, including new copies of 3500-NA-5 and 3500-G-4. The previous versions of

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<sup>1</sup> The government expects the parties to agree to a stipulation concerning the translations of two recordings previously provided in discovery. If the parties do not do so, the government will call one additional witness, interpreter Sucheta Ghosh. The government provided her resume with its November 7, 2009 expert notice. That resume and the translations are her 3500 material.

3500-NA-5 and 3500-G-4 included only the front of those documents; the enclosed versions include the back of them as well. Also enclosed is additional 3500 for Special Agent Eric Silverman and a revised 3500 list.

Generally speaking, the procedure by which the anticipated government witnesses received deferred action was as follows. Agent Silverman wrote a memorandum to one of his superiors requesting deferred action. If the request was granted, the witness received either a letter or a receipt noting the deferred action. After receiving deferred action, the witness was eligible to receive work authorization. Agent Silverman completed the work authorization application for the witness and, in some cases, provided the witness with a cover letter to be enclosed with the application. Agent Silverman then instructed the witness to mail the application, the application fee, if applicable, and the cover letter, if any, to the appropriate authority.<sup>2</sup> Anticipated witnesses Nizar Ahmad and Gulistan NLN have received work authorization. Their authorizations will expire on the same date their deferred actions expire.

Finally, also enclosed is Government Exhibit 3.

Very truly yours,

BENTON J. CAMPBELL  
United States Attorney

By: \_\_\_\_\_/s/\_\_\_\_\_  
Andrew E. Goldsmith  
Soumya Dayananda  
Assistant U.S. Attorneys  
(718) 254-6498/7996

Enclosures

cc: Clerk of Court (SJ) (w/out enclosures)

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<sup>2</sup> ICE personnel submitted the work authorization application of anticipated witness Nizar Ahmad on his behalf.